

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION

HUNTER DOSTER, *et al.*,

Plaintiffs,

v.

FRANK KENDALL, *et al.*,

Defendants.

No. 1:22-cv-00084
Hon. Matthew W. McFarland

**DEFENDANTS' NOTICE OF FURTHER IMPLEMENTATION OF THE
RESCISSION OF DOD COVID-19 VACCINATION REQUIREMENT**

Defendants file this notice to further inform the Court of developments related to Defendants' implementation of the Secretary of Defense's January 10, 2023 memorandum rescinding his August 24, 2021 memorandum which required COVID-19 vaccination, and rescinding his November 30, 2021 memorandum which required COVID-19 vaccination for members of the National Guard and the Ready Reserve. Defendants previously notified the Court of similar developments *See* ECF No. 101.

Defendants first file this notice to inform the Court that on January 18, 2023, the Chief of the National Guard Bureau issued a memorandum clarifying that "all currently serving non-federalized Army National Guard and Air National Guard members who are not fully vaccinated for COVID-19, but are otherwise qualified and eligible are no longer prohibited from, and may be directed to resume participation in drills, training

and/or other duty conducted under Title 32, U.S. Code.” See 1/18/2023 NGB Memo (attached as Ex. 1).

Defendants also wish to notify the Court that on February 10, 2023, the Chief of the Air Force Reserve issued a memorandum titled “Air Force Reserve (AFR) Guidance for COVID-19.” 2/10/2023 Air Force Reserve Rescission (attached as Ex. 2). This memorandum rescinded a prior Air Force Reserve memo regarding COVID-19 vaccination requirements and clarified that non-vaccinated members may participate. *Id.*

Defendants are conferring with Plaintiffs regarding these latest developments.

Dated: February 13, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

On February 13, 2023, I electronically submitted the foregoing document using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Zachary A. Avallone
Zachary A. Avallone
Trial Attorney
U.S. Department of Justice